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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,920	05/23/2001	Jean-Louis Blanchard	FR919990071US1	1618

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FERENCE & ASSOCIATES
400 BROAD STREET
PITTSBURGH, PA 15143

EXAMINER

FELTEN, DANIEL S

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 04/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,920

Applicant(s)

BLANCHARD ET AL.

Examiner

Daniel S Felten

Art Unit

3624

ML

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 26 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3624

DETAILED ACTION

Withdrawal of Finality of Previous Office Action

1. Applicant's request for reconsideration of the finality of the rejection during the April 22, 2004 telephone interview with Mr. Stanley Ference (Reg. No. 33, 879) of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Furthermore, this newly presented office action is written as a Supplemental Action wherein rejections from the previous office action are maintained and are re-submitted for the applicant's perusal below.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter. Claims 1, 9 and 14 in particular present claims that incorporate limitations with the body of the claims that have no technical basis and do not rise to the level of merit within the technical arts. Applicant has merely presented abstract ideas with the body of the claim(s) and must recite limitations that have technology (i.e., if a computer is controlling certain

Art Unit: 3624

aspects/features of the invention, the claim should present language that states which aspects/features are being controlled). The mere recitation in the preamble of, "a data processing system comprising a processor", in claim 1, "system for analyzing the characteristics of sub-time periods", in claim 9, and "In data processing system comprising data storage means for storing historical data representative of a price evolution..." does not rise to the level of technical merit (see Ex Parte Bowman 61 USPQ2D 1665, 1671 (BD. Pat. App. & Inter 2001) (Unpub). Bowman, although not precedential, it is being cited for its analysis of whether the claim(s) is/are in the technical arts.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1-8, it is unclear from claim 1(e) what the exploratory data analysis method is or how it being used on the results of claim 1(b-d). It is also not understood what the applicant means by "standard" description. It is not understood what criteria the applicant considers "standard".

In claims 9-13, the applicant has claimed, "a system..." in the preamble. It is uncertain whether the applicant intends to claim a method or an apparatus since the

Art Unit: 3624

definition of a claim cover both statutory classes. Thus it is incumbent on the applicant to state on the record which class the aforementioned claims are.

Claim Rejections - 35 USC . 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-14 are rejected under 35 U.S.C. 103(4) as being unpatentable over Garcia (US 6,272,474 B1).

Garcia discloses a data processing system showing the price evolution of a plurality of stocks via the Internet, by which a candle stick display is used to indicate the high and the low sale price, the opening and the closing prices, and a sub-time period that indicates the percentage of sales that have occurred between the bid and the ask price (see Garcia, col. 5, 11. 20+; and col. 6, 11. 48+).

Garcia fails to disclose a processor and a data storage means for storing data. However, it is notoriously old and well known in the art that websites are graphical user interfaces that are launched by a web browser, found on a local computer (client), a webserver. Both the client and the server both have processing and storage capabilities. Thus to provide processing and storage capabilities to the website display disclosed by Garcia would have constituted an obvious expedient to one of ordinary skill

Art Unit: 3624

in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S Felten whose telephone number is (703) 305-0724. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel S Felten
Examiner
Art Unit 3624

DSF
April 22, 2004